

13.8 DETERMINING WV WORKS TEMPORARY EXEMPTIONS

NOTE: The following are temporary exemptions from meeting the work requirement. These do not automatically exempt the individual from the 60-month or 24-month time limits described in Sections 15.6 and 15.7.

A. AGE OF INDIVIDUAL

Individuals over age 60 are exempt.

B. PHYSICAL/MENTAL INCAPACITY

Individuals with a physical or mental health incapacity, or suffering from a temporary debilitating injury are temporarily exempt. The temporary injury must last, or be expected to last, for more than 30 days. The individual's condition must be reevaluated within the time limits specified by his medical practitioner, but no less often than annually. MRT must approve all individuals claiming permanent and total disability. See Section 12.3,C for instructions to determine incapacity. In addition, all adults and emancipated minors who are temporarily exempt due to physical, mental or emotional reasons must be submitted to MRT prior to receipt of their 24th WV WORKS payment. Referral may be made at any time prior to the 24th month. However, approval of an application may not be delayed pending receipt of the MRT decision unless the Worker and/or Supervisor cannot determine that incapacity exists from available medical information. When submitting the individual's information to MRT, the Worker must request that a decision be made about disability, as well as incapacity.

C. PREGNANCY/AGE OF CHILD

NOTE: Any parent who is temporarily exempt from meeting the work requirement due to pregnancy or age of a child must be at least age 18 or an emancipated minor.

A woman is exempt as follows due to her own pregnancy, or either parent is exempt as follows due to the age of his own child(ren).

1. Definition of First Child

The following definition is used throughout the explanation of this exemption. To qualify as a First Child for the exemption described below, all of the following criteria must be met. No other child may be a First Child.

- The child is born to an adult or emancipated minor who was a TANF or WV WORKS recipient during the month that the child is born; and
- The child was born on or after 1/01/97; and
- No other child was previously born to the adult or emancipated minor parent on or after 1/01/97, during a month that the parent was a TANF or WV WORKS recipient.

EXAMPLE: A WV WORKS recipient has 2 children, ages 2 and 3, when her case is approved. After receiving cash assistance for 6 months, she becomes pregnant. The child with which she is pregnant meets the

definition of First Child and her exemption is based on this.

EXAMPLE: A woman received AFDC for 3 years. When the Department converted AFDC to TANF in 1/97, she became a TANF recipient. See Section 15.1. She gave birth to no children while she was an AFDC recipient, but, in 2/97, she gave birth to another child while she was a TANF recipient. In 3/98 she gives birth to another child. Her case is converted to WV WORKS in 4/98 and she wants to be exempt from meeting a work requirement until this youngest child reaches age 1. However, the youngest child does not meet the definition of First Child. The First Child is the one born in 2/97. By the time the case is converted to WV WORKS, the First Child is already age 1.

EXAMPLE: A pregnant woman with one additional child, age 3, applies and is approved for WV WORKS. She receives benefits for 4 months and then requests case closure because she is marrying the father of her unborn child. The child has not been born at the time the case is closed. The child is born in February and the father loses his job in the same month. In February, they apply for WV WORKS. Because the father had earnings in February before he lost his job, the family is ineligible for February due to excess income. They are eligible beginning in March. The child does not meet the definition of First

Child because neither parent was a cash assistance recipient during the month the child was born. Had they been eligible for any amount for February, the child would have met the definition.

EXAMPLE: A woman applies for WV WORKS for herself and 2 children, ages 4 and 2 months. She has never received TANF or WV WORKS before. There is no child in the home who meets the definition of First Child.

2. Who May Be Exempt

The exemptions are as follows:

- An applicant or recipient woman who is pregnant with a First Child, or a man who is the father of this First Child, is exempt from the date the child is born until the month following the month in which the child reaches age 1, provided the parent who is to be exempted is a recipient during the month the child is born and is at

least age 18 or emancipated. The exemption for a First Child does not include any time prior to the birth of the child for either parent, unless one of the other exemptions from meeting the work requirement is met, such as temporary incapacity for the pregnant woman who is having complications during the pregnancy. The parent may choose to participate, but no sanction is applied for any failure during the exemption period. If the parent chooses to participate, no amount of the exemption time remaining after participation begins may be used by either parent during or following the birth of any other child.

NOTE: When there are 2 parents in the home, only 1 at a time is exempt under this provision. The parents may change the decision about which parent is exempt at any time, but may not change the previous decision to avoid a sanction once the advance notice period begins.

- An applicant or recipient woman who is pregnant with a child who is not a First Child, is exempt from meeting the work requirement for a total of 6 consecutive

months provided the woman is at least age 18 or emancipated.

The client may choose which period of time to be exempt, but the exemption period must be between the beginning of the last trimester of pregnancy and the first 6 months after the birth. The woman may only be exempt for more time if she meets one of the other exemptions, such as temporary incapacity. The woman may choose to participate, but no sanction may be applied for any failure during the exemption period. If she chooses to participate, no amount of the exemption time remaining to her as a result of this birth may be used by either parent during or following the birth of any other child;

or

An applicant or recipient father of the unborn child who is not a First Child, is exempt from meeting the work requirement for 6 consecutive months following the birth of the child provided he is at least age 18 or emancipated.

The father may only be exempt for more time if he meets one of the other exemptions from meeting the work requirement. He may not choose to be exempt due to pregnancy during the last trimester of pregnancy but may be exempt for some other reason. The father may choose to participate, but no sanction may be applied for any failure during the exemption period. If he chooses to participate, no amount of the exemption time remaining as a result of this birth may be used by either parent during or following the birth of any other child.

NOTE: The applicant or recipient pregnant woman and father may share the exemptions as long as only one parent at a time is exempt and as long as the total number of exempt months related to the pregnancy does not exceed 6 months. The parents may change the decision about which parent is exempt at any time, except that the decision cannot be changed to avoid a sanction once the advance notice period begins.

- An applicant parent whose cash assistance benefits were stopped prior to the expiration of any exemption period as described above, is eligible for the remainder of the original exemption upon reapplication and reapproval of benefits during the original exemption period.
- An applicant parent who has a newborn child under 6 months of age is exempt until the month following the month the newborn child reaches age 6-months provided the parent is at least age 18 or emancipated. The parent may only be exempt for more time if he meets one of the other exemptions from meeting the work requirement. The parent may choose to participate, but no sanction may be applied for any failure during the exemption period. If the parent chooses to participate, no amount of the exemption time remaining from this child may be used by either parent during or following the birth of any other child.

NOTE: When there are 2 parents in the home, only 1 at a time is exempt under this provision. The parents may change the decision about which parent is exempt at any time, but may not change the previous decision to avoid a sanction once the advance notice period begins.

3. Examples

EXAMPLE: A WV WORKS recipient has 2 children, ages 2 and 3, when her case is approved. After receiving cash assistance for 6 months, she becomes pregnant. The child meets the definition of First Child and her exemption is based on this. She is exempt until the child reaches age 1.

EXAMPLE: A woman received AFDC for 3 years. When the Department converted AFDC to TANF in 1/97, she became a TANF recipient. See Section 15.1. She gave birth to no children while she was an AFDC recipient, but, in 2/97, she gave birth to another child while she was a TANF recipient. In 3/98 she gives birth to another child. Her case is converted to WV WORKS in 4/98 and she wants to be exempt from meeting a work requirement until this youngest child reaches age 1. However, the youngest child does not meet the definition of First Child. The First Child is the one born in

2/97. By the time the case is converted to WV WORKS, the First Child is already age 1. Upon conversion to WV WORKS, the woman is not exempt from meeting a work requirement due to the age of her child.

EXAMPLE: A pregnant woman with one additional child, age 3, applies and is approved for WV WORKS. She receives benefits for 4 months and then requests case closure because she is marrying the father of her unborn child. The child has not been born at the time the case is closed. The child is born in February and the father loses his job in the same month. In February, they apply for WV WORKS. Because the father had earnings in early February before he lost his job, the family is eligible for only \$3 for February. The father is certain he can find employment within 6 months, and his wife wants to be exempt from the work requirement. They, therefore, choose to receive the \$3 check for February, even though they are using 1 month of their 60-month lifetime limit. The wife's exemption is based on the fact that the child just born is a First Child and she is exempt until the child reaches age 1. In July, the father finds another job and cash assistance benefits are stopped. He works until November when he is laid off. They reapply and are approved for benefits beginning in December. They choose to have the wife continue to be exempt, so she is exempt until March 1st. Benefits were stopped and reinstated during the exemption period, so the remainder of the exemption is available to one of them. The child reaches age 1 in February, so the mother remains exempt until March 1st.

EXAMPLE: A woman applies for WV WORKS for herself and 2 children, ages 4 and 2-months. She has never received TANF or WV WORKS before. She is exempt until the month after the youngest child becomes 6-months old.

EXAMPLE: A husband and wife with 3 children, ages 4, 2 and 3-months, apply and are approved for WV WORKS. She is pregnant with a First Child at the time of the approval. She is exempt until the youngest child attains the age of 6-months. In addition, when the child is born, they choose for the wife to be exempt until the child reaches age 1. When the child is 3 months old, the husband does not keep an appointment for a job interview.

Advance notice is sent on July 2nd for the offense that occurred on June 25th. Once the clients receive the letter, they notify the Worker that they want to change their decision about which one is exempt, so that the wife will be required to meet the work requirement. The Worker explains that a PRC Self-Sufficiency Plan must be developed for the wife, but that the change is acceptable. The Worker also informs them that the sanction must continue, regardless of the change in exemption status because the offense happened prior to the change, and the request for an exemption change was not received prior to the beginning of the advance notice period.

EXAMPLE: Mr. and Mrs. Y receive WV WORKS for themselves and 1 child. Mrs. Y is pregnant with a child who is not a First Child and the child is due in 1 month. She chooses to be exempt for the last month of her pregnancy and for 5 months after the child is born. When the child is 2-months old, Mrs. Y is offered and accepts part-time employment. Mr. Y chooses to be exempt for the remaining 3 months of the exemption period, for a total of 6 months.

D. CHILD UNDER 6/UNAVAILABLE CHILD CARE (TD)

An individual caring for a child under age 6 is temporarily exempt when the individual is unable to obtain formal or informal child care. The client must accept available child care unless it is an unreasonable distance from the individual's home or work site. Special needs children may require special child care arrangements. If so, the unavailability of suitable and appropriate care must be considered for special needs children.

E. CHILD WITH LIFE-THREATENING ILLNESS (TS)

NOTE: Providing care for a child, as follows, is a legal, temporary exemption from meeting a work requirement and is listed here for that reason. Providing this care may also meet the work requirement as a community service activity and must be used as such. See Section 24.10,C.

A parent who is caring for his own dependent child is temporarily exempt when the child has a life-threatening illness.

F. IN-HOME CARE FOR RELATIVE (TW)

NOTE: Providing care for a relative, as follows, is a legal, temporary exemption from meeting a work requirement and is listed here for that reason. Providing this care may also meet the work requirement as a community service activity and must be used as such. See Section 24.10,C.

An individual who provides care in his own home for a relative is temporarily exempt when such care prevents institutionalization.

G. DOMESTIC VIOLENCE (TV)

When an individual discloses domestic violence which is a barrier to participation in WV WORKS activities, the individual may receive a temporary exemption from the requirements for up to 6 months as long as the individual:

- Accepts a referral to a local domestic violence agency; and
- Completes a time-limited service plan with the domestic violence agency which will enable him to gain self-sufficiency; and
- Complies with the requirements of the domestic violence agency plan.

If the client refuses the referral to an appropriate agency, he cannot receive this temporary exemption. The case, however, is coded in RAPIDS with the Domestic Violence indicator. See Section 1.2,D.

The Worker must monitor the plan regularly in order insure compliance and to continue the exemption. The Worker must maintain close contact with the DV program and the program's statement that the client is engaged in reasonable efforts to remain safe, as long as the barriers exist, is accepted.

If, at the end of the plan period, barriers to self-sufficiency still exist, the temporary exemption may be continued on a month-by-month basis until the barriers no longer exist, as long as the client continues to comply with the domestic violence agency's plan. Plans may be extended after the 6-month limit when extenuating circumstances exist and counseling continues at the recommendation of the DV counselor.

